TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1940

No. 588

FRED F. EDWARDS, APPELLANT,

vs.

THE PEOPLE OF THE STATE OF CALIFORNIA

APPEAL FROM THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF YUBA

FILED NOVEMBER 20, 1940.

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INDEX.

	Original	Print
Record from Justice's Court of Marysville Township, County of Yuba	1	1
Complaint	3	1
Demurrer and points and authorities upon demurrer	5	2
Amended demurrer	12	6
Copy of docket entries	14	7
Notice of appeal	15	8
Statement on appeal and order approving same	16	8
Proceedings in Superior Court for the County of Yuba	19	10
Memorandum opinion by Steel, J.	19	10
Judgment on appeal	21	11
Petition for appeal	22	11
Assignment of errors	23	12
Order allowing appeal and waiving cost bond	26	14
Citation (omitted in printing)	28	
Designation of record	45	15
Clerk's certificate (omitted in printing)	46	
Statement of points to be relied upon and designation as to printing record	47	16

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[fols. 1-3]

IN THE JUSTICE'S COURT OF MARYSVILLE TOWNSHIP, COUNTY OF YUBA

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff,

Against

FRED F. EDWARDS, Defendant.

COMPLAINT—Filed February 7, 1940

Before L. J. Mulvany Justice of the Peace.

J. E. Barton being duly sworn upon oath, accuses Fred F. Edwards of a Misdemeanor to wit: Violation of Sec. 2615 Welfare and Institutions Code of the State of California, (Stats. 1933, Ch. 761 & Amendments thereto) committed as follows, to-wit: that on or about the 3rd day of January, 1940, and within the limits of the County of Yuba, in the State of California, the said defendant Fred F. Edwards did then and there wilfully and unlawfully bring and/or assist in bringing into the State of California an indigent person, to-wit, Frank Duncan, who is not and was not at said time a resident of the State of California, being at said time a resident of Spur, Dixon County, Texas, and the said defendant knowing said Frank Duncan to be an indigent person;

All of which was and is contrary to the form, force and effect of the Statute in such case made and provided, and against the peace and dignity of the people of the State [fol. 4] of California.

J. E. Barton.

Subscribed and sworn to before me at the County of Yuba, the 7th day of February, 1940. L. J. Mulvany, Justice of the Peace, Marysville Township, Yuba County, California. (Seal.)

[File endorsement omitted.]

[fol. 5] IN THE JUSTICE'S COURT OF MARYSVILLE TOWNSHIP, COUNTY OF YUBA

DEMURRER—Filed February 17, 1940

Defendant demurs to the complaint herein upon the following grounds:

I

The facts stated in said complaint do not constitute a public offense.

II

The Court has no jurisdiction of the offense charged in said complaint.

III

The complaint contains matters which, if true, would constitute a legal justification or excuse of the offense charged, or other legal bar to the prosecution.

IV

That more than one offense is charged in said complaint and the same are not connected together in their commission and are not of the same class of crime or offense as is excepted by the provisions of Section 954 of the Penal Code of California.

V

The complaint does not substantially conform to the requirements of Sections 950, 951 and 952 of the Penal Code of California, or to any of said sections.

Wherefore, defendant demands that said complaint be dismissed.

[fol. 6] Philip Adams, W. M. Collins, Attorneys for Defendant.

We, the undersigned attorneys for defendant, do hereby certify that the above and foregoing demurrer is well taken in point of law and is not interposed for purposes of delay.

Philip Adams, W. M. Collins, Attorneys for Defendant.

[fol. 7] POINTS AND AUTHORITIES IN SUPPORT OF DEMURRER

Inasmuch as the statute declares it to be a crime for a person to bring or assist in bringing an indigent person into the State it makes it a crime for him to aid, abet, encourage, assist or advocate by action, speech or press the exercise by the indigent person of a lawful right guaranteed to him by the Federal and State constitutions, namely, the freedom of movement or locomotion. It therefore contravenes freedom of speech and press and is void as contrary to public policy. We submit, therefore that the statute is invalid, void and unconstitutional in the following respects, to-wit:—

1. The statute as construed and as applied to defendant is void inasmuch as it attempts to regulate commerce between the States in violation of the "commerce clause" of Section 8 of Article I of the Constitution of the United States.

2. The statute as construed and as applied to defendant is void as it attempts to regulate the migration of persons within and between the States in violation of the provisions of Section 9 of Article I of the Constitution of the United States.

3. The statute as construed and as applied to defendant is void as it is in substance an ex-post facto law or retrospective statute forbidden by the provisions of Section 9 of Article I of the Constitution of the United States and Section 16 of Article I of the California constitution.

4. The statute as construed and as applied to defendant is void as a denial of free speech and press guaranteed by [fol. 8] the provisions of the 1st Amendment of the Federal constitution and the provisions of the 14th Amendment which prohibits a state from interfering with the exercise thereof.

5. The statute as construed and as applied to defendant is void as it punishes and denies free speech and press guaranteed by the provisions of Section 9 of Article I of the California constitution and by the 1st Amendment of the federal constitution, which liberties are guaranteed by the 14th Amendment free from interference by the State.

6. The statute as construed and as applied to defendant is void inasmuch as it denies to defendant freedom of

speech, press, and movement or locomotion without due process of law and denies to him the equal protection of the law in violation of the due process clause and the equal protection clause of the 14th Amendment of the federal constitution and Section 13 of the California constitution.

7. The statute as construed and as applied to defendant is void as it abridges the privileges and immunities (freedom of speech, press and movement) in violation of Section 1 of the 14th Amendment of the federal constitution and in violation of the provisions of Section 2 of Article IV of the federal constitution.

8. The statute as construed and as applied to defendant is void inasmuch as it amounts to a denial of the right to assemble, and to petition the government for redress, in violation of the 1st Amendment of the federal constitution, [fol. 9] and in violation of the provisions of Section 10 of Article I of the California constitution which right is protected from state interference under the due process and equal protection clauses of the 14th Amendment of the federal constitution.

9. The statute as construed and as applied to defendant is void inasmuch as any punishment it inflicts for aiding another person to exercise a guaranteed constitutional right would amount to a cruel and unusual punishment forbidden by Section 6 of Article I of the California constitution and by Section 10 of Article I of the federal constitution and by implication by the 14th amendment of the federal constitution.

10. The statute as construed and as applied to defendant is void as being contrary to public policy inasmuch as it punishes a person for assisting or advocating the exercise of a lawful action guaranteed free from interference by the state and federal constitutions, namely, freedom of speech, press, and movement.

11. The statute as construed and as applied to defendant is void as in violation of the provisions of Section 21 of Article I of the California constitution.

12. The statute is void inasmuch as a violation thereof is made punishable as a misdemeanor under Section 19 of the Penal Code of California which provides for the assessment of a fine and imprisonment, or both, and inasmuch as it

applies to corporations as well as to individuals it is necessarily void since a corporation cannot be jailed.

[fol. 10] 13. Because of non-user since its original enactment the "Doctrine of desuetude" applies and the statute is a dead letter.

14. The statute is invalid and void because it violates the provisions of Section 24 of Article IV of the California constitution in that it embraces more than one subject and the subject is not expressed in its title.

15. The statute is void and invalid as a local or special law violative of the provisions of Section 25 of Article IV of the California constitution, subdivision 19, and for the further reason that it lacks a uniform operation and hence violates Section 11 of Article I of the California constitution.

16. The statute is void inasmuch as it is vague, indefinite, uncertain and ambiguous in that it does not appear therein or therefrom how a corporation to which it applies can be sent to jail for a violation thereof.

17. The statute as construed and as applied to defendant is void in that it is an unreasonable, arbitrary and oppressive expression of police power not based upon any emergency condition that threatens the public health, safety or morals or endangers the peace or safety of the state.

18. The statute as construed and as applied to defendant is void as an unlawful interference with family relationships since it prevents a person from providing for and assisting members of his family in domestic economy.

Respectfully submitted, Philip Adams, W. M. Collins,
Attorneys for Defendant.

[fol. 11] [File endorsement omitted]

[fol. 12] IN THE JUSTICE COURT OF MARYSVILLE TOWNSHIP, COUNTY OF YUBA

AMENDED DEMURRER—Filed February 17, 1940

Defendant demurs to the complaint herein upon the following grounds, amending and supplementing his original demurrer herein:

I

Defendant refers to and incorporates herein as fully as though set forth in full all of the grounds set forth in his original demurrer filed in this action.

II

That the statute upon which this complaint is founded is unconstitutional and void, upon the grounds and for the reasons set out in the Points and Authorities set forth, and attached to, the original demurrer in this action. Said points and authorities are referred to and incorporated in this Amended Demurrer as fully as though copied herein at full length.

Wherefore, defendant demands that said complaint be dismissed.

Philip Adams, Attorney for Defendant

STIPULATION

It is hereby stipulated by and between the attorneys for the plaintiff and defendant in this action of the People of [fol. 13] the State of California against Fred F. Edwards, that the within Amended Demurrer may be filed and received by the court with like effect as though all of the matters therein had been contained in the original Demurrer.

Joseph L. Heenan, District Attorney of Yuba County, Attorney for the Plaintiff. Philip Adams, Attorney for Defendant.

Receipt is hereby acknowledged of a copy of the Original Demurrer, a copy of the Points and Authorities, and of

the Amended Demurrer in this action, this 17th day of February, 1940.

Joseph L. Heenan, District Attorney of Yuba County.

[File endorsement omitted.]

[fol. 14] IN THE JUSTICE'S COURT OF MARYSVILLE TOWNSHIP, COUNTY OF YUBA

COPY OF DOCKET ENTRIES

Complaint of J. E. Barton, Charging Misdemeanor Viol., Sec. 2615, Stats. 1933 Ch. 761 Amend. Committed at Yuba County, Jan. 3rd., 1940. Joseph L. Heenan, Philip Adams.

Feb. 7. Complaint filed warrant of arrest issued and delivered to Sheriff McCoy.

Feb. 9. Arraigned, rights explained, time set to plea, Feb. 13, 4 P. M. out on $1000.00 Bail Bond

Feb. 13. Time set to plea Feb. 17, 1940, 10 A. M.

Feb. 17. Demurrer filed, demurrer over-ruled.

Trial held, witness Fred F. Edwards and Frank Duncan.

The Court found Fred F. Edwards guilty as charged.

Edwards waived time.

The Court sentenced Edwards to serve six months in the Yuba County Jail, sentence suspended.

L. J. Mulvany, J. P.

Feb. 17. Amended demurrer filed.

Feb. 17. Verbal notice to appeal entered.

Feb. 23. Notice of Appeal filed.

Mar. 1. Statement on appeal filed.

[fol. 15] IN THE JUSTICE'S COURT OF MARYSVILLE TOWNSHIP, COUNTY OF YUBA

NOTICE OF APPEAL

To the Clerk of the above-entitled Court, to the Plaintiff above-named and to Joseph L. Keenan, Esq., District Attorney of Yuba County, Attorney for Plaintiff:

Please take notice that Fred F. Edwards, the defendant above-named, hereby appeals to the Superior Court of the State of California, in and for the County of Yuba, from that certain judgment of conviction and sentence of imprisonment for six months in the County Jail suspended under certain conditions, rendered and entered against him and recorded in the above-entitled action by this court on February 17, 1940, and from the whole thereof, on questions of fact and law and each of them. This notice is given in addition to oral notice of appeal given in open court on said 17th day of February, 1940.

Dated: February 19, 1940.

Philip Adams, Attorney for Defendant.

[fol. 16] IN THE JUSTICE'S COURT OF MARYSVILLE TOWNSHIP, COUNTY OF YUBA

STATEMENT ON APPEAL AND ORDER APPROVING SAME

I

Defendant having been convicted of a violation of Section 2615 of the Welfare and Institutions Code of the State of California, appeals from said judgment and specifies as grounds on which he intends to rely upon this appeal as follows:

The facts stated in said complaint and the evidence adduced, as shown in the stipulation herein, does not constitute a public offense because the said statute is void as being in conflict with the Constitution of the State of California and the United States Constitution. The grounds on which said statute is unconstitutional are fully set forth in the demurrer and amended demurrer heretofore filed in this action on February 17, 1940, and these said grounds

are referred to and incorporated herein as fully as though set out in full.

Appellant further appeals from the order of the court in overruling this demurrer at the time of trial.

II

It is stipulated and agreed to between the parties to this action that the facts involved in this case are as follows:

The appellant, Fred F. Edwards, a citizen of the United States, and a resident of the State of California, left Marysville, California, on December 21, 1939, for Spur, Texas. The object of his trip was to bring his wife's brother, Frank Duncan, a citizen of the U. S. and resident of Texas, back to Marysville. Appellant arrived at Spur, Texas, on December 24, 1939, and learned that Duncan then had no job [fol. 17] and had last been employed by the W. P. A. Appellant at that time learned that Duncan was an indigent person and at all times mentioned herein, appellant knew Duncan to be indigent. It was agreed between Duncan and appellant that appellant would drive Duncan from Spur, Texas, to Marysville, California, in appellant's car. Appellant and Duncan left Spur, Texas, on January 1, 1940, entered California from Yuma, Arizona, on January 3, 1940, and arrived in Marysville on January 5, 1940. At the time Duncan arrived in Marysville he was without funds and lived at appellant's home until he was given assistance by the Farm Security Administration about ten days after his arrival in Marysville. Duncan had no employment after his arrival in California, until after he was given assistance by the Farm Security Administration. Duncan had about Twenty Dollars ($20.00) when he left Spur, Texas; this money was all spent before his arrival in Marysville.

Dated: February 23, 1940.

Joseph L. Keenan, District Attorney of Yuba County, Attorney for Plaintiff. Philip Adams, Attorney for Appellant, Fred F. Edwards.

[fol. 18] ORDER

I hereby certify that the above Statement on Appeal has been settled and approved by me this 1st day of March, 1940.

L. J. Mulvany, Justice of the Peace.

[fol. 19] In the Superior Court of California
In and for the County of Yuba

The People of the State of California, Plaintiff and Respondent

vs.

Fred F. Edwards, Defendant and Appellant.

Memo Opinion—Filed June 25, 1940

The defendant and appellant herein was convicted in the Justice Court of a misdemeanor, to wit: a violation of Section 2615 of The Welfare and Institutions Code of this State which reads as follows:

"2615. Willful act a misdemeanor. Every person, firm, or corporation or officer or agent thereof that brings or assists in bringing into the State any indigent person who is not a resident of the State, knowing him to be an indigent person, is guilty of a misdemeanor."

The case is before this Court on a stipulation of facts and the question presented the validity of the statute under which the defendant was adjudged guilty.

The issue as to the constitutionality of this statute has been exhaustively argued in the briefs filed, including briefs of amicus curiae, and it appears that the higher courts have not as yet had occasion to pass upon such a statute as the one here involved. In the numerous decisions cited, dicta [fol. 20] is to be found which strongly suggests that such legislation may be violative of the Privileges and Immunities clause of the 14th Amendment in restricting the right of citizens to pass freely from state to state as well as violative of other provisions of the United States Constitution and the California Constitution.

The Court regards the question as close and in view of that, as a trial court, it is constrained to uphold the statute as a valid exercise of the Police Power of the State of California.

The question is of importance to the public, considering times and conditions, and should be finally settled by the higher courts. The present holding of this Court makes possible a further appeal to and review by the courts of higher jurisdiction.

The judgment will therefore be affirmed and it is so ordered.

Warren Steel, Judge.

Dated: June 24th, 1940.

[File endorsement omitted.]

[fol. 21] IN SUPERIOR COURT OF CALIFORNIA
IN AND FOR THE COUNTY OF YUBA

JUDGMENT ON APPEAL—Filed June 27, 1940

This cause having been called and coming on for hearing on the statements and records on appeal, on arguments of counsel for both Appellants and Respondent heretofore submitted on written briefs, and being then submitted and taken under advisement, and all and singular the law and premises having been fully considered, and the opinion of the Court herein having been made and filed;

Whereupon it is ordered, adjudged and decreed by the Court that the judgment of conviction and the order overruling the demurrer and amended demurrer of the Justice's Court of Marysville Township, County of Yuba, State of California, in the above-entitled cause, be and the same are hereby affirmed.

Dated this 26 day of June, 1940.

Warren Steel, Judge of the Superior Court.

[File endorsement omitted.]

[fol. 22] SUPREME COURT OF THE UNITED STATES

[Title omitted]

Petition for Appeal, Assignment of Errors and Prayer for Reversal—Filed September 21, 1940

Considering himself aggrieved by the final judgment and decision of the Superior Court of the County of Yuba, State of California, in the above-entitled cause, the petitioner hereby prays that an appeal be allowed to the Supreme Court of the United States.

Summary Statement of the Case

The validity of a statute of the State of California within the meaning and intent of Section 237 (a) of the Judicial Code of the United States is drawn in question upon the ground that said statute is repugnant to the Constitution of the United States. The statute in question was enacted by Chapters 369 and 464, Statutes of California, on June 21, 1937, and is Section 2615 of the Welfare and Institutions Code of California, and reads as follows:

"Section 2615: Wilful Act a Misdemeanor. Every person, firm or corporation, or officer or agent thereof that brings or assists in bringing into the State any indigent [fol. 23] person who is not a resident of the State, knowing him to be an indigent person, is guilty of a misdemeanor. (1937)

The appellant was convicted in the Justice's Court of Marysville Township, Yuba County, California, of a violation of the foregoing statute, having been charged with and found guilty of bringing his wife's brother from Spur, Texas, to Marysville, California.

This conviction was appealed to the Superior Court of the State of California for Yuba County and that court affirmed the conviction of the Justice's Court. The judgment and decision of the Superior Court was made and entered on the 26th day of June, 1940, and is a final judgment by the highest court of the State of California in which a decision could be had in this proceeding. Said judgment and decision of the Superior Court rejected the contentions of appellant that the statute under which he was charged, and for violation of which he was found guilty, was and is on its face and as applied and enforced in the case of appellant void and repugnant to the Constitution of the United States.

Assignment of Errors

The appellant assigns the following errors in the proceedings in this case:

1. The Superior Court erred in its judgment and decision in that it failed to rule and decide that Section 2615 of the

Welfare and Institutions Code of California was and is repugnant to the Constitution of the United States and Article [fol. 24] I, Section 8 thereof, as an attempt by the State of California to regulate commerce among the several states.

2. The Superior Court erred in affirming the judgment of conviction because said judgment deprived appellant of his liberty without due process of law, in violation of Section 1 of Amendment XIV of the United States Constitution, in that Section 2615 of the Welfare and Institutions Code of California, on its face and as applied and enforced against the appellant, violates said Section 1 of Amendment XIV of the United States Constitution.

3. The Superior Court erred in its decision and judgment in failing to adjudge Section 2615 of the Welfare and Institutions Code of California, on its face and as enforced and applied to appellant, to be unconstitutional and to deprive appellant of due process of law by denying him freedom of speech, press, movement, residence, and by punishing appellant for assisting another to exercise the latter's constitutional rights or privileges.

4. The Superior Court erred in affirming the judgment of conviction because the statute under which appellant was convicted abridges the privileges or immunities of citizens of the United States in violation of Section 1 of Amendment XIV, and Article IV, Section 2, of the United States Constitution in that, by making it a misdemeanor to bring or assist in bringing into the State of California one known to be indigent, it limits, abridges or denies the right or privilege of unhindered movement from one place to another.

[fol. 25] 5. The Superior Court erred in affirming the judgment of conviction because Section 2615 of the Welfare and Institutions Code of California and appellant's conviction thereunder constituted a denial to him of due process and of the equal protection of the laws in violation of Section 1 of Amendment XIV of the United States Constitution, in that under the statute in question one who brings or assists in bringing a person known to be indigent into California is guilty of a misdemeanor while neither under said statute nor under any other California statute is it a crime for an indigent person to come into California and no penalty attaches to him upon entrance in California.

PRAYER FOR REVERSAL

For which errors appellant prays that the judgment of the Superior Court of the State of California, in and for the County of Yuba, dated June 26, 1940, in the above-entitled cause, be reversed, and a judgment rendered in favor of the appellant, and for costs.

Samuel Slaff, Philip Adams, Wayne M. Collins, Attorneys for Appellant.

[File endorsement omitted.]

[fol. 26] SUPREME COURT OF THE UNITED STATES

ORDER ALLOWING APPEAL AND WAIVING COST BOND—Filed September 21, 1940

Whereas, the appellant in the above-entitled matter having prayed for the allowance of an appeal in this cause to the Supreme Court of the United States from the judgment made and entered in the above-entitled matter by the Superior Court of the State of California, in and for the County of Yuba, on the 26th day of June, 1940, and from each and every part thereof; and

Whereas, the appellant having presented his petition for appeal, assignment of errors, prayer for reversal, and statement as to jurisdiction, pursuant to the statutes and rules of the Supreme Court of the United States in such cases made and provided;

Now, therefore, it is ordered that an appeal be, and the same is, hereby allowed to the Supreme Court of the United States from the Superior Court of the State of California, in and for the County of Yuba, in the above-entitled cause, as provided by law; and

It is further Ordered that the clerk of the Superior Court of the State of California, in and for the County of Yuba, shall prepare and certify a transcript of the record, proceedings, and judgment in this cause and transmit the same to the Supreme Court of the United States so that he shall have the same in said Supreme Court within sixty days of this date; and

It is further ordered that the filing of a bond as security [fol. 27] for costs on appeal is hereby waived.

Dated this 21st day of September, 1940.

Warren Steel, Judge of the Superior Court of the State of California, in and for the County of Yuba.

[File endorsement omitted.]

[fols. 28-44] Citation in usual form, filed Sept. 21, 1940, omitted in printing.

[fol. 45] IN SUPERIOR COURT OF YUBA COUNTY

APPELLANT'S DESIGNATION OF THE RECORD, PROCEEDINGS AND EVIDENCE TO BE CONTAINED IN THE RECORD ON APPEAL—Filed September 24, 1940

Appellant, defendant in the above-entitled action, designates the following portions of the record, proceedings and evidence to be contained in the record on appeal in the above-entitled action:

(1) The Justice's Court Complaint
(2) Demurrer of Defendant
(3) Points and Authorities in Support of Demurrer
(4) Amended Demurrer
(5) Copy of Docket in Justice's Court
(6) Notice of Appeal to Superior Court
(7) Statement on Appeal to the Superior Court
(8) The opinion of the Superior Court affirming judgment of conviction in the Justice's Court
(9) Judgment on Appeal in the Superior Court
(10) Petition for Appeal and the Order Allowing said Appeal
(11) Citation on Appeal with acknowledgement of service
(12) Statement as to Jurisdiction
(13) This Designation

Samuel Slaff, Philip Adams, Wayne M. Collins.

[File endorsement omitted.]

[fol. 46] Clerk's Certificate to foregoing transcript omitted in printing.

[fol. 47] SUPREME COURT OF THE UNITED STATES

STATEMENT OF POINTS TO BE RELIED UPON AND DESIGNATION AS TO RECORD—Filed December 5, 1940

The appellant states that he believes the entire record to be necessary for the consideration of the case and further states that the points upon which he intends to rely are as follows:

1. The statute under which appellant was convicted (Welfare and Institutions Code of the State of California, Section 2615) is unconstitutional on its face, and is construed and applied in this case, in that it violates Section 8 of Article I of the United States Constitution by assuming to regulate commerce among the several states.

2. The aforesaid statute, on its face and as construed and applied in this case, violates Section 1 of the XIVth amendment to the Constitution of the United States in that it:

a) Abridges the privileges and immunities of the citizens of the United States, of whom appellant is one.

b) Deprives appellant of his liberty without due process of law.

c) Denies to appellant the equal protection of the laws.

d) Punishes the exercises of freedom of speech, of press, of movement and of residence.

[fol. 48] e) Punishes appellant for assisting an indigent in the latter's exercise of his constitutional rights or privileges.

f) Punishes appellant for bringing or assisting in bringing an indigent, not a resident of California, into California while entrance into California by the self same indigent is no crime under the aforesaid statute or any California statute.

g) Is so broad and inclusive in its terms as to penalize bringing or assisting in bringing an indigent, not a resident of the state, into California no matter how worthy or proper the purpose, motive or intent may have been in bringing the indigent into California.

3. The aforesaid statute, on its face and as construed and applied in this case, violates Article IV, Sec. 2, sub-division 1 of the United States Constitution.

4. The Superior Court erred in failing to reverse the judgment of conviction of appellant.

Dated, December 4, 1940.

Samuel Slaff, 70 Pine Street, New York, N. Y., Attorney for Appellant.

UNITED STATES OF AMERICA
City, County & State of New York, ss:

Celia Sheff, being duly sworn, deposes and says: that on the 4th day of December, 1940 affiant enclosed in an envelope the above designation of the record and statement of points upon which appellant intends to rely and sealed said [fol. 49] envelope and addressed the same as follows, to wit: "Joseph L. Heenan, Esq., District Attorney, Yuba County, Marysville, California" and on said day deposited the same so addressed and with the postage thereon fully prepaid in a Post-office box regularly maintained by the United States Government at 70 Pine Street, Borough of Manhattan, City and County of New York.

The affiant is over the age of 21 years.

Celia Sheff.

Sworn to before me this 4th day of December, 1940.
John W. Dooley, Notary Public, Bronx County, N. Y.

[fol. 50] [File endorsement omitted.]

[Endorsed on Cover:] File No. 44,937 California, Superior Court, County of Yuba, Term No. 588. Fred F. Edwards, Appellant, vs. The People of the State of California. Filed November 20, 1940. Term No. 588 O. T. 1940.